

Message Text

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ACTION COME-00

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DEPARTMENT PASS COMMERCE

E. O. 11652: N/ A

TAGS: EIND, TU

SUBJECT: NEW GOT DECREE ON ROYALTIES FOR PHARMACEUTICALS

REF: A. ISTANBUL 1117, SEPT. 14, 1972; B. STATE 168712,
SEPT. 16, 1972

BEGIN SUMMARY: REFTELS OUTLINED PROBLEMS OF US PHARMACEUTICAL COMPANIES WHICH HOLDING LARGE AMOUNTS ACCRUED ROYALTIES ON PHARMACEUTICAL PRODUCTS DUE TO RESTRICTIVE GOT POLICY ON REMITTANCE. BY DECREE PUBLISHED OFFICIAL GAZETTE MARCH 14, GOT HAS CONSIDERABLY LIBERALIZED RULES GOVERNING REMITTANCE OF ROYALTIES IN THIS INDUSTRY. END SUMMARY.

1. NEW DECREE PROVIDES THAT WHERE LICENSEE HAS NO CAPITAL RELATIONSHIP WITH LICENSOR, MAXIMUM OF 3 PER CENT OF MANUFACTURERS SELLING PRICE MAY BE REMITTED. IF CAPITAL RELATIONSHIP EXISTS, MAXIMUM OF 1 PERCENT OF MFG. SELLING PRICE MAY BE REMITTED.
2. THIS CONTRASTS WITH OLD RULES UNDER CIRCULAR NO. 64 WHICH MADE NO RPT NO DISTINCTION ON BASIS CAPITAL RELATIONSHIP AND WHICH PROVIDED MAXIMUM 4 PERCENT REMITTANCE BASED ON MORE RESTRICTIVE "INDUSTRIAL COST" FORMULA WHICH GENERALLY EQUALLED LESS THAN 2 PER-

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CENT CALCULATED ON SALES PRICE. MORE IMPORTANTLY, NEW DECREE DOES NOT RPT NOT CONTAIN PROVISION OF CIRCULAR 64 WHICH REDUCED ROYALTY REMITTANCE BY 50 PERCENT TEN YEARS AFTER REGISTRATION OF PRODUCT IN COUNTRY OF ORIGIN AND PROHIBITED ALL REMITTANCES 15 YEARS AFTER DATE OF REGISTRATION. ALSO OF IMPORTANCE TO US FIRMS IS PROVISION OF NEW DECREE WHICH STATES THAT MAXIMUM OF 4 PERCENT BASED ON MFGRS. SALES PRICES MAY BE REMITTED ON ROYALTIES EARNED BUT NOT REMITTED DURING PERIOD APRIL 18, 1968 AND MARCH 14, 1973 OF THESE ROYALTIES HAVE BEEN DULY RECORDED ON BOOKS OF LOCAL LICENSEE. REMITTANCE OF ROYALTIES WAS SUSPENDED ON FORMER DATE AND FOLLOWING PROMULGATION CIRCULAR #64 ON APRIL 21, 1969 MOST LICENSORS HAVE MADE ONLY TOKEN REMITTANCES IN PROTEST AGAINST MORE RESTRICTIVE POLICIES LAID DOWN BY CIRCULAR 64.

3. COMMENT: MANAGERS OF US PHARMACEUTICAL FIRMS HAVING JOINT VENTURES HERE LESS THAN ENCHANTED WITH NEW REGULATIONS WHICH LIMIT THEIR REMITTANCES TO 1 PERCENT ALTHOUGH THEY CONCEDE SUMS INVOLVED RELATIVELY SMALL SINCE FEW OF THEIR PRODUCTS ARE PRODUCED UNDER LICENSE WITH PARENT US FIRM. THEY ATTRIBUTE NEW GOT POLICY ALMOST ENTIRELY TO LOBBYING EFFORTS OF NEJAT ECZACIBASI, OWNER OF ONE OF LARGEST AND MOST INFLUENTIAL LOCAL PHARMACEUTICAL FIRMS WHICH IS ALSO ONE OF LARGEST LICENSEES OF FOREIGN, INCLUDING US FIRMS. AS DEPARTMENT AWARE, SEVERAL US FIRMS HAVE BEEN ON VERGE OF CANCELLING LICENSING AGREEMENTS IN TURKEY DUE LOW LEVEL OF REMITTANCES PERMITTED. THEY HAVE TENDED VIEW SKEPTICALLY REPEATED ASSURANCES BY ECZACIBASI THAT IN TIME GOT COULD BE PERSUADED CHANGE ITS POLICY. THIS CHANGE HAS NOW BEEN ACCOMPLISHED. HOWEVER, VIEW DECREE CONTAINS PROVISION THAT ALL APPLICATIONS FOR REMITTANCE ROYALTIES ON PHARMACEUTICAL PRODUCTS MUST BE "EXAMINED" BY MINISTRY HEALTH WHICH NOT KNOWN FOR ITS FAVORABLE ATTITUDE TOWARD PRIVATE, PARTICULARLY FOREIGN, FIRMS. IT THUS REMAINS TO BE SEEN HOW NEW REGULATIONS WILL BE APPLIED IN PRACTICE.

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